

18:00 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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UNITED STATES OF AMERICA  
Plaintiff,

5

vs.

6

MICHAEL COMER

7

JOSE LOPEZ-AGUIRRE

EDUARDO SALDANA-VASQUEZ

18:00 8

JOHN FRANKLIN ISOM

9

Defendants.

10

11

12

Rearraignment  
Before the Honorable Magistrate Judge Paul Stickney

13

14

A P P E A R A N C E S:

15

For the Government:

16

PAUL YANOWITCH

17

KEITH ROBINSON

18

CHARLES BROWN

19

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18:00 1

P R O C E E D I N G S:

2

THE COURT: Court is in session in the matter of  
United States of America versus Antonio Lopez Aguirre,  
Case Number 3:07-331-G.

5

MR. ROBINSON: Keith Robinson for the United  
States.

7

MR. O'SHEA: Brian O'Shea for Mr. Lopez-Aguirre.

8

THE COURT: Does the defendant need the services  
of an interpreter?

10

MR. O'SHEA: Yes, your Honor.

11

(Sworn)

12

THE COURT: Mr. Lopez-Aguirre, I am going to  
swear you under oath. Would you raise your right hand.

14

(Sworn)

08:23 15

MR. LOPEZ-AGUIRRE: Yes.

16

THE COURT: Please state your full name for the  
record.

18

MR. LOPEZ-AGUIRRE: Jose Antonio Lopez-Aguirre.

19

THE COURT: Do you understand that you are now  
under oath and if you answer any of my questions falsely  
you could later be charged with perjury or making a false  
statement.

23

MR. LOPEZ-AGUIRRE: Yes.

24

THE COURT: Do you read, write and understand  
the English language?

25

08:23 1 MR. LOPEZ-AGUIRRE: No.

2 THE COURT: Do you read, write and understand

3 the Spanish language?

4 MR. LOPEZ-AGUIRRE: Yes.

5 THE COURT: How old are you, sir?

6 MR. LOPEZ-AGUIRRE: Twenty-nine.

7 THE COURT: And in what year were you born?

8 MR. LOPEZ-AGUIRRE: 1979.

9 THE COURT: In the last six months have you been

10 under the care of a physician or psychiatrist?

11 MR. LOPEZ-AGUIRRE: Yes.

12 THE COURT: And what was that for?

13 MR. LOPEZ-AGUIRRE: For an examination and I'm

14 all right.

08:24 15 THE COURT: Are you on any medication?

16 MR. LOPEZ-AGUIRRE: No.

17 THE COURT: Are you now under the influence of

18 alcohol or any other drug?

19 MR. LOPEZ-AGUIRRE: No.

20 THE COURT: Do you suffer from my mental or

21 emotional disability or problem?

22 MR. LOPEZ-AGUIRRE: No.

23 THE COURT: Are you of sound mind and do you

24 understand what you are doing here today?

25 MR. LOPEZ-AGUIRRE: Yes.

08:24 1 THE COURT: Mr. O'Shea, any reason to believe  
2 that Mr. Lopez-Aguirre is not fully competent to enter a  
3 plea of guilty?

4 MR. O'SHEA: No, your Honor.

5 THE COURT: Do you believe the plea that he is  
6 proposing to make would be a knowing and voluntary plea?

7 MR. O'SHEA: Yes, your Honor.

8 THE COURT: If I could have you step to the side  
9 while I call the next case which is United States against  
10 Saldana-Vasquez.

11 MR. BROWN: Charles Brown for the government.

12 MS. HARPER: Laura Harper for Mr.  
13 Saldana-Vasquez.

14 THE COURT: Does the defendant need the services  
08:25 15 of an interpreter?

16 MS. HARPER: Yes, your Honor.

17 (Sworn)

18 THE COURT: Are you Eduardo Saldana-Vasquez?

19 MR. SALDANA-VASQUEZ: Yes, sir.

20 THE COURT: Please raise your right hand and  
21 I'll swear you under oath.

22 (Sworn)

23 MR. SALDANA-VASQUEZ: Yes, sir.

24 THE COURT: Please state your full name for the  
25 record.

08:25 1 MR. SALDANA-VASQUEZ: Eduardo Saldana-Vasquez.

2 THE COURT: Do you understand that you are now  
3 under oath and if you answer any of my questions falsely  
4 you could later be charged with perjury or making a false  
5 statement?

6 MR. SALDANA-VASQUEZ: Yes, sir.

7 THE COURT: Do you read, write and understand  
8 the English language?

9 MR. SALDANA-VASQUEZ: No, sir.

10 THE COURT: Do you read, write and understand  
11 the Spanish language?

12 MR. SALDANA-VASQUEZ: Yes, sir.

13 THE COURT: How much English do you speak?

14 MR. SALDANA-VASQUEZ: Eighty percent.

08:26 15 THE COURT: Are you more comfortable with an  
16 interpreter?

17 MR. SALDANA-VASQUEZ: With interpreter.

18 THE COURT: How old are you?

19 MR. SALDANA-VASQUEZ: Twenty-five years.

20 THE COURT: And in what year were you born?

21 MR. SALDANA-VASQUEZ: In 1983.

22 THE COURT: In the last six months, have you  
23 been under the care of a physician or psychiatrist?

24 MR. SALDANA-VASQUEZ: No, sir.

25 THE COURT: Do you suffer from any mental or

08:26 1 emotional disability or problem?

2 MR. SALDANA-VASQUEZ: No, your Honor.

3 THE COURT: Are you now under the influence of  
4 alcohol or any other drug?

5 MR. SALDANA-VASQUEZ: No, sir.

6 THE COURT: Are you of sound mind and do you  
7 understand what it is that you are doing here today?

8 MR. SALDANA-VASQUEZ: Yes, sir.

9 THE COURT: Ms. Harper, any reason to believe  
10 that Mr. Saldana-Vasquez is not fully competent to enter a  
11 plea of guilty?

12 MS. HARPER: No, your Honor.

13 THE COURT: Do you believe the plea of guilty  
14 that he is proposing to make would be a knowing and  
08:27 15 voluntary plea?

16 MS. HARPER: Yes, your Honor.

17 THE COURT: If I could have you step to one side  
18 while I call the next case which is United States of  
19 America versus Michael Comer, Case Number 3:08-CR-85.

20 MR. YANOWITCH: Paul Yanowitch for the  
21 government, your Honor.

22 MR. MATEJA: Bill Mateja on behalf of the  
23 defense, your Honor.

24 THE COURT: Mr. Comer, if you would raise your  
25 right hand.

08:27 1

(Sworn)

2

MR. COMER: Yes, sir.

3

THE COURT: Thank you. Please state your full  
4 name for the record.

5

MR. COMER: Michael Lee Comer.

6

THE COURT: Do you understand that you are now  
7 under oath and if you answer any of my questions falsely  
8 you could later be charged with perjury or making a false  
9 statement?

10

MR. COMER: Yes, sir.

11

THE COURT: Do you read, write and understand  
12 the English language?

13

MR. COMER: Yes, sir.

14

THE COURT: And how old are you?

08:28 15

MR. COMER: Thirty-three.

16

THE COURT: And what year were you born?

17

MR. COMER: 1974.

18

THE COURT: And in the last six months, have you  
19 been under the care of a physician or psychiatrist?

20

MR. COMER: No, sir.

21

THE COURT: Do you suffer from any mental or  
22 emotional problem?

23

MR. COMER: No, sir.

24

THE COURT: Are you now under the influence of  
25 alcohol or any drug?



08:28 1 MR. COMER: No, sir.

2 THE COURT: Are you of sound mind and do you  
3 understand what it is you are doing here today?

4 MR. COMER: Yes, sir.

5 THE COURT: Counsel, any reason to believe that  
6 Mr. Comer is not fully competent to enter a plea of  
7 guilty?

8 MR. MATEJA: No, your Honor.

9 THE COURT: Do you believe the plea he is  
10 proposing to make would be a knowing and voluntary plea?

11 MR. MATEJA: I do, your Honor.

12 THE COURT: I'll have you step to one side and  
13 I'll call the next case. United States against John  
14 Franklin Isom, Number 3: 08-CR-072.

08:28 15 MR. BROWN: Charles Brown for the government.

16 MR. HOGUE: Chris Hogue for Mr. Isom.

17 THE COURT: Thank you.

18 (Sworn)

19 THE COURT: Please state your full name for the  
20 record.

21 MR. ISOM: John Franklin Isom, Junior.

22 THE COURT: Do you understand that you are now  
23 under oath and if you answer any of my questions falsely  
24 you could later be charged with perjury or making a false  
25 statement?

08:29 1 MR. ISOM: Yes, sir.

2 THE COURT: Do you read, write and understand  
3 the English language?

4 MR. ISOM: Yes, sir.

5 THE COURT: And how old are you?

6 MR. ISOM: Thirty-two.

7 THE COURT: And what year were you born?

8 MR. ISOM: 1975.

9 THE COURT: In the last six months have you been  
10 under the care of a physician or psychiatrist?

11 MR. COMER: Yes, sir.

12 THE COURT: What was that for?

13 MR. COMER: Worried about U.S. probation.

14 THE COURT: Are you on any medication for that?

08:29 15 MR. COMER: No, sir.

16 THE COURT: Do you suffer from any emotional or  
17 mental disability?

18 MR. COMER: No, sir.

19 THE COURT: Are you now under the influence of  
20 alcohol or any drug?

21 MR. COMER: No.

22 THE COURT: Are you of sound mind and understand  
23 what you are doing today?

24 MR. COMER: Yes, sir.

25 THE COURT: Counsel, do you believe that Mr.

08:29 1 Comer is fully competent to enter a plea?

2 MR. MATEJA: Yes, sir.

3 THE COURT: Do you believe the plea he is  
4 proposing to make is a knowing and voluntary plea?

5 MR. MATEJA: Yes, sir.

6 THE COURT: Now, I inform each of you that you  
7 have the right to enter your guilty pleas before the  
8 United States District judge assigned to your case.  
9 However, you may consent and proceed before me, a United  
10 States Magistrate Judge. If you do so, I would then make  
11 recommendations to the District Judge that he or she  
12 accept or reject your pleas of guilty. You would have ten  
13 days in which to file any objection to those findings.

14 Now, in each of your cases, I have a signed  
08:32 15 consent form in which you consent to proceeding before me  
16 with your plea of guilty.

17 Mr. Lopez, is this yours?

18 MR. LOPEZ-AGUIRRE: Yes, sir.

19 THE COURT: Did you go over this with counsel  
20 before you signed it?

21 MR. LOPEZ-AGUIRRE: Yes.

22 THE COURT: And do you wish to consent and  
23 proceed before me with your plea of guilty today?

24 MR. LOPEZ-AGUIRRE: Yes.

25 THE COURT: Mr. Saldana-Vasquez, is this yours?

08:33 1 MR. SALDANA-VASQUEZ: Yes, sir.

2 THE COURT: Did you go over this with counsel  
3 before you signed it?

4 MR. SALDANA-VASQUEZ: Yes.

5 THE COURT: And do you also wish to proceed  
6 before me with your plea of guilty today?

7 MR. SALDANA-VASQUEZ: Yes, sir.

8 THE COURT: Mr. Isom, is this yours?

9 MR. ISOM: Yes, sir.

10 THE COURT: Did you read this before you signed  
11 it?

12 MR. ISOM: Yes, sir.

13 THE COURT: Do you wish to consent and proceed  
14 before me with your plea of guilty today?

08:33 15 MR. ISOM: Yes, sir.

16 THE COURT: Mr. Comer, is this yours?

17 MR. ISOM: Yes, sir.

18 THE COURT: Did you read this before you signed  
19 it?

20 MR. ISOM: Yes, sir.

21 THE COURT: And do you also wish to consent and  
22 proceed before me with your plea of guilty?

23 MR. ISOM: Yes, sir.

24 THE COURT: In each case I will order the filing  
25 of the consent forms. I am going over your Constitutional

08:33 1 rights, and these are important so I want you to pay close  
2 attention. You may, if you choose, plea not guilty to any  
3 charge against you, and you may persists in that plea.  
4 The Constitution of the United States guarantees to you  
5 each of the following rights: You have the right to a  
6 speedy and public trial by a jury in this district. You  
7 have the right at such a trial to confront -- that is to  
8 see, hear and cross examine -- all witnesses against you.  
9 You have the right to use the power and the process of  
10 court to compel the production of evidence including the  
11 attendance of any witnesses in your favor, and you have  
12 the right to have the assistance of an attorney in your  
13 defense in all stages of the proceedings. And if  
14 necessary, I would appoint an attorney to represent you if  
08:34 15 you did not have or could not afford an attorney.

16 At such a trial, you cannot be compelled to  
17 testify, and whether or not you did decide to testify  
18 would be a matter upon which your judgment alone would  
19 control.

20 At such a trial, the United States would be  
21 required to prove your guilt beyond a reasonable doubt,  
22 and if you were found guilty, you would have the right to  
23 appeal your conviction.

24 Mr. Lopez-Aguirre, did you understand each of my  
25 explanations about your Constitutional rights?

08:34 1 MR. LOPEZ-AGUIRRE: Yes, sir.

2 THE COURT: Mr. Saldana-Vasquez, did you?

3 MR. SALDANA-VASQUEZ: Yes, sir.

4 THE COURT: Mr. Isom, did you?

5 MR. ISOM: Yes, sir.

6 THE COURT: Mr. Comer, did you.

7 MR. COMER: Yes, sir.

8 THE COURT: On the other hand, if you plead  
9 guilty and such a plea is accepted by the District Judge,  
10 there will not be a further trial of any kind so that by  
11 pleading guilty, you would be waiving your rights to a  
12 trial as well as the other rights associated with the  
13 trial as I have described them.

14 Generally, a defendant cannot plead guilty  
08:35 15 unless he is actually guilty of that crime. In federal  
16 court, the judge determines the penalty, whether the  
17 conviction is by way of a plea of guilty or by verdict of  
18 a jury.

19 The Court has not and will not talk to anyone  
20 about the facts of your case except in your presence where  
21 you and your attorney and representatives of the  
22 government are all present.

23 If you should be convicted you and your attorney  
24 each will be given an opportunity to present to the  
25 District Judge any pleas for leniency.

08:35 1 The penalty will be decided based upon the facts  
2 heard in open court. You should not depend or rely on any  
3 statement or promise by anyone, whether connected with law  
4 enforcement or government or anyone else, as to what the  
5 penalty should be in your case.

6 Should you decide to plead guilty, your plea of  
7 guilty must not be induced by any promise, threats or  
8 pressure or coercion of any kind. A plea of guilty should  
9 be voluntarily made, and you should plead guilty only  
10 because you are guilty and for no other reason. Mr.  
11 Lopez-Aguirre, did you understand each of my explanations  
12 about pleading guilty?

13 MR. LOPEZ-AGUIRRE: Yes, sir.

14 THE COURT: Mr. Saldana-Vasquez, did you?

08:36 15 MR. SALDANA-VASQUEZ: Yes, sir.

16 THE COURT: Mr. Isom, did you?

17 MR. ISOM: Yes, sir.

18 THE COURT: Mr. Comer, did you?

19 MR. COMER: Yes, sir.

20 THE COURT: Have you each discussed with your  
21 attorneys how the sentencing guidelines would apply in  
22 your case? Mr. Lopez-Aguirre?

23 MR. LOPEZ-AGUIRRE: Yes, sir.

24 THE COURT: Mr. Saldana-Vasquez.

25 MR. SALDANA-VAQUEZ: Yes, sir.

08:36 1 THE COURT: Mr. Isom.

2 MR. ISOM: Yes, sir.

3 THE COURT: Mr. Comer?

4 MR. COMER: Yes, sir.

5 THE COURT: Even though you have discussed how  
6 those sentencing guidelines would apply in your case, I am  
7 required to inform you under the Sentencing Reform Act of  
8 1984 that the United States Sentencing Commission has  
9 issued guidelines to follow in each criminal case. Those  
10 guidelines have now been determined to be advisory. Even  
11 so, the court is required to consider any applicable  
12 sentencing guidelines and may it depart from those  
13 guidelines as long as the judge does so reasonably.

14 The Court is not bound by facts stipulated  
08:37 15 between you and your attorney on the one hand and the  
16 government on the other. The Court may take into account  
17 facts not in the stipulation and may disregard the  
18 stipulated facts that are made. You might not be  
19 permitted to withdraw your pleas of guilty in such an  
20 event.

21 The Court will not be able to determine the  
22 guidelines for your case until after the presentence  
23 report has been prepared and you and your attorney and the  
24 government have had the opportunity to challenge the facts  
25 proposed by the probation officer. You have the right to



08:37 1 waive that right, and under some circumstances the  
2 government has the right to appeal. Parole has been  
3 abolished, and if you were sentenced to prison, you will  
4 not be released on parole.

5 Mr. Lopez-Aguirre, did you understand each of my  
6 explanations about sentencing?

7 MR. LOPEZ-AGUIRRE: Yes, sir.

8 THE COURT: Mr. Saldana-Vasquez?

9 MR. SALDANA-VASQUEZ: Yes, sir.

10 THE COURT: Mr. Isom?

11 MR. ISOM: Yes, sir.

12 THE COURT: Mr. Comer, did you?

13 MR. COMER: Yes, sir.

14 THE COURT: Thank you.

08:38 15 I am going to have you each take a seat with the  
16 exception of Mr. Lopez-Aguirre, and I will continue with  
17 his case.

18 It's my understanding, Mr. O'Shea, that Mr.  
19 Lopez-Aguirre is pleading guilty to Count 1 of the  
20 superseding indictment. Is that correct?

21 MR. O'SHEA: That's correct, your Honor.

22 THE COURT: Mr. Lopez-Aguirre, have you received  
23 a copy of this indictment?

24 MR. LOPEZ-AGUIRRE: Yes.

25 THE COURT: Has it been read to you in Spanish?

08:39 1 MR. LOPEZ-AGUIRRE: No. Yes.

2 THE COURT: Do you understand what it charges  
3 you with?

4 MR. LOPEZ-AGUIRRE: Yes.

5 THE COURT: Now, even though you understand  
6 that, I could have it read out loud if you wish. But  
7 seeing as you understand what you are charged with, I will  
8 allow you to waive the reading. Do you wish to waive the  
9 reading?

10 MR. LOPEZ-AGUIRRE: Yes.

11 THE COURT: Even though you have waived the  
12 reading --

13 MR. O'SHEA: I'm sorry, your Honor. He's saying  
14 he wants it read again.

08:39 15 THE COURT: Do you want it read again? That's  
16 not a problem.

17 You can read it just as to this defendant.

18 MR. ROBINSON: All right.

19 (Indictment read)

20 MR. ROBINSON: Would you like me to read the  
21 forfeiture count?

22 THE COURT: Is he pleading true to it?

23 MR. ROBINSON: Yes.

24 THE COURT: Then you better.

25 (Forfeiture count read)

08:43 1 THE COURT: Thank you. Mr. Lopez-Aguirre, do  
2 you understand what you are charged with in this  
3 indictment?

4 MR. LOPEZ-AGUIRRE: Yes.

5 THE COURT: Now, even though you do understand  
6 that, I am still required to go over the essential  
7 elements of this offense that the government would have to  
8 prove to a jury beyond a reasonable doubt before you could  
9 be found guilty, and I want you to pay close attention to  
10 the essential elements of Count 1 of the indictment  
11 because after this has been read in the record I am going  
12 to ask you if you admit to committing each of them.

13 (Essential elements read)

14 THE COURT: Thank you. Mr. Lopez-Aguirre, do  
08:44 15 you understand that those are the essential elements of  
16 Count 1 of the superceding indictment that the government  
17 would have to prove to a jury beyond a reasonable doubt  
18 before you could be found guilty?

19 MR. LOPEZ-AGUIRRE: Yes, sir.

20 THE COURT: Do you admit to committing each of  
21 those?

22 MR. LOPEZ-AGUIRRE: Yes, sir.

23 THE COURT: Now, you have Mr. O'Shea appearing  
24 here today with you as your attorney. And I know that you  
25 have discussed the sentencing guidelines with Mr. O'Shea.

08:45 1 Have you also discussed with him the facts and  
2 circumstances surrounding these charges?

3 MR. LOPEZ-AGUIRRE: Yes, sir.

4 THE COURT: Are you fully satisfied with the  
5 advice and representation that he has given to you in this  
6 matter?

7 MR. LOPEZ-AGUIRRE: Yes.

8 THE COURT: Mr. O'Shea, does the willingness of  
9 your client to plead guilty result from plea negotiations  
10 with the government that have in turn resulted in a plea  
11 agreement?

12 MR. O'SHEA: That's correct, your Honor.

13 THE COURT: I do have a document entitled Plea  
14 Agreement here in front of me. This document is nine  
08:45 15 pages long, and it has Mr. Lopez-Aguirre's signature on  
16 the last two pages. Sir, did you have this read to you in  
17 Spanish before you signed it?

18 MR. LOPEZ-AGUIRRE: Yes.

19 THE COURT: Did you voluntarily and of your own  
20 free will enter into this plea agreement?

21 MR. LOPEZ-AGUIRRE: Yes, sir.

22 THE COURT: Are you asking that Judge Fish  
23 accept this plea agreement?

24 MR. LOPEZ-AGUIRRE: Yes.

25 THE COURT: Are all the terms of your agreement

08:46 1 with the government contained in this document?

2 MR. LOPEZ-AGUIRRE: Yes.

3 THE COURT: Outside of this written plea  
4 agreement has anybody made any promise or assurance to you  
5 of any kind in an effort to get you to plead guilty?

6 MR. LOPEZ-AGUIRRE: No.

7 THE COURT: Has anyone mentally or physically or  
8 in any other way attempted to force you to plead guilty?

9 MR. LOPEZ-AGUIRRE: I'm going to plead guilty.

10 THE COURT: Do you understand if your guilty  
11 plea is accepted by Judge Fish, you will be adjudged  
12 guilty by Judge Fish and your punishment will be assisted  
13 somewhere in the range provided for by statute?

14 MR. LOPEZ-AGUIRRE: Yes, sir.

08:47 15 THE COURT: I am going to summarize this plea  
16 agreement in the record, but you have read this, and you  
17 have told me that you voluntarily entered into this plea  
18 agreement. So you know if I skip over something in here  
19 that you are protected by the written document.

20 Page 1 talks of your rights and that you waive  
21 those rights and plead guilty to Count 1 of the  
22 superseding indictment, and Count 2, you plead true, the  
23 forfeiture proceedings.

24 The maximum penalty the Court can impose for a  
25 plea of guilty to Count 1 of the superseding indictment

08:47 1 includes as follows: A term of imprisonment for a period  
2 not less than ten years and not to exceed life. A fine  
3 not to exceed four million dollars or twice any gain to  
4 yourself or loss to any victim. A term of supervised  
5 release of not less than five years would be mandatory  
6 under the law and would follow any term of imprisonment.  
7 If you violate any of those conditions of supervised  
8 release, you could be imprisoned for the entire term of  
9 supervised release. You will receive a mandatory special  
10 assessment of one hundred dollars and restitution will be  
11 ordered under the Mandatory Restitution Act for all of  
12 your conduct. You could be ordered to pay the costs of  
13 incarceration and supervision and forfeit any profit.

14 Mr. Lopez-Aguirre are you a citizen of United  
08:48 15 States?

16 MR. LOPEZ-AGUIRRE: No.

17 THE COURT: The offense to which you are  
18 pleading guilty would result in your deportation, and it  
19 could adversely affect your ability ever to become a  
20 citizen of the United States. That would be in addition  
21 to the maximum punishment that I have just gone over.

22 Do you understand that you are facing all of  
23 this punishment by pleading guilty?

24 MR. LOPEZ-AGUIRRE: Yes.

25 THE COURT: Do you understand if your actual

08:48 1 sentence is more severe than you anticipate, you will  
2 still be bound by your plea of guilty and have no right to  
3 withdraw?

4 MR. LOPEZ-AGUIRRE: Yes.

5 THE COURT: Paragraph 4, the sentencing is  
6 entirely up to Judge Fish. Paragraph 5, you will pay the  
7 special assessment of one hundred dollars. You'll forfeit  
8 all rights, Paragraph 7, and interest in the following  
9 property which lists all the property that was listed in  
10 the indictment that was just read to you. In addition, it  
11 encompasses 1.48 million dollars in currency seized in  
12 October of 2007 plus numerous firearms and ammunition.

13 The government agrees not to bring any  
14 additional charges against you and will dismiss any  
08:49 15 remaining charges after sentencing. If you violate this  
16 agreement, you have no agreement with the government. You  
17 have waived your right to appeal or otherwise challenge  
18 your sentence in habeas corpus provisions, but you have  
19 the reserved the right to bring a direct appeal to a  
20 sentence that exceeds the statutory maximum, mathematical  
21 errors and to challenge the voluntariness of your plea of  
22 guilty or this waiver and to bring a claim of ineffective  
23 assistance of counsel.

24 Do you understand that you have the right to  
25 appeal or otherwise challenge your sentence?

08:50 1 MR. LOPEZ-AGUIRRE: Yes, sir.

2 THE COURT: And you wish to waive those rights  
3 except in these limited circumstances?

4 MR. LOPEZ-AGUIRRE: Yes.

5 THE COURT: I order the plea agreement be filed  
6 in this matter. Mr. Lopez-Aguirre, do you need me to go  
7 over any aspect of this punishment with you further?

8 MR. LOPEZ-AGUIRRE: No.

9 THE COURT: Having heard all the foregoing, how  
10 do you plead to Count 1 of the superseding indictment?  
11 Guilty or not guilty?

12 MR. LOPEZ-AGUIRRE: Guilty.

13 THE COURT: And how do you plead to Count 2, the  
14 forfeiture allegation, true or not true?

08:51 15 MR. LOPEZ-AGUIRRE: Yes, true.

16 THE COURT: This Court will then make a  
17 recommendation to Judge Fish that he accept your plea of  
18 guilty on the condition that there is a factual basis to  
19 support this plea.

20 I have a factual resume here in front of me, and  
21 it's five pages long, and it bears your signature on the  
22 last page as well as of that Mr. O'Shea and the  
23 government. I have read this factual resume. Are these  
24 facts as stated in the Factual Resume true facts?

25 MR. LOPEZ-AGUIRRE: Yes.



08:51 1 THE COURT: And these were read to you and you  
2 went over them with your attorney before you signed it?

3 MR. LOPEZ-AGUIRRE: Yes.

4 THE COURT: Now, it would be appropriate to read  
5 these into the record. Since you have told me these are  
6 true facts, I will allow you to waive the reading. Do you  
7 wish to waive the reading?

8 MR. LOPEZ-AGUIRRE: Waive the reading.

9 THE COURT: The Court being satisfied then with  
10 the responses given in the case of United States of  
11 America versus Lopez-Aguirre, Case Number 3:07-CR-331-G,  
12 the Court finds that Mr. Lopez-Aguirre is competent and  
13 capable of entering an informed plea to Count 1 and plea  
14 of true to Count 2, that the pleas are knowing, voluntary  
08:52 15 pleas containing each of the essential elements as charged  
16 in Counts 1 and 2.

17 It is recommended to Judge Fish that he accept  
18 your pleas of guilty and true, and if he does, you will be  
19 adjudged guilty of this offense. I have entered my  
20 findings, and these findings are basically recommending to  
21 Judge Fish that he accept your plea of guilty. You have  
22 ten days from today's date in which to file any objection  
23 to those findings.

24 Now, what happens next is Mr. O'Shea is going to  
25 set up an appointment with the Probation Office to come

08:53 1 out and visit with you to get information for the  
2 presentence report. You will be asked to give information  
3 for this presentence report in the interview, and your  
4 degree of cooperation would be a factor in the severity of  
5 your sentence.

6 As you already know, Mr. O'Shea is very well  
7 versed in this process, and he would be with you during  
8 that interview to make sure that everything runs smoothly.

9 Sentencing in this matter is set for September  
10 2nd, 2008 at 1:45 p.m. The presentence report due date is  
11 July 29. What other matters from the government?

12 MR. ROBINSON: Nothing else, your Honor.

13 THE COURT: Mr. O'Shea?

14 MR. O'SHEA: Nothing, your Honor.

08:53 15 THE COURT: Mr. Saldana-Vasquez. Ms. Harper, my  
16 understanding is Mr. Saldana-Vasquez is pleading guilty to  
17 Count 1 of the indictment. Is that correct?

18 MS. HARPER: That's correct, your Honor.

19 THE COURT: Mr. Saldana-Vasquez, have you  
20 received a copy of this indictment?

21 MR. SALDANA-VASQUEZ: Yes, sir.

22 THE COURT: Has it been read to you in Spanish?

23 MR. SALDANA-VASQUEZ: Yes, sir.

24 THE COURT: Do you understand what it says that  
25 you did?

08:54 1 MR. SALDANA-VASQUEZ: Yes, sir.

2 THE COURT: Now, I could have it read out loud  
3 if you wish, but seeing as you understand what you are  
4 charged with, I will allow you to waive the reading. Do  
5 you wish to waive the reading?

6 MR. SALDANA-VASQUEZ: Waive the reading.

7 THE COURT: Even though you have waived the  
8 reading of the indictment, I am required to go over the  
9 essential elements of this offense that the government  
10 would have to prove to a jury beyond a reasonable doubt.  
11 Now, I want you to pay close attention to these essential  
12 elements because after these are read into the record, I  
13 am going to ask you if you admit to committing each of  
14 them.

08:55 15 (Essential elements read)

16 THE COURT: Mr. Saldana-Vasquez, do you  
17 understand that those are the essential elements of Count  
18 1 of the indictment that the government would have to  
19 prove to a jury beyond a reasonable doubt before you could  
20 be found guilty?

21 MR. SALDANA-VASQUEZ: Yes, sir.

22 THE COURT: Do you admit to committing each of  
23 those?

24 MR. SALDANA-VASQUEZ: Yes, sir.

25 THE COURT: Now, you have Ms. Harper appearing

08:56 1 here today with you as your attorney. And I know that you  
2 have discussed the Sentencing Guidelines. Have you also  
3 discussed with Ms. Harper the facts and circumstances  
4 surrounding these charges?

5 MR. SALDANA-VASQUEZ: Yes, sir.

6 THE COURT: And are you fully satisfied with the  
7 advice and representation that she has given you in this  
8 matter?

9 MR. SALDANA-VASQUEZ: Yes, sir.

10 THE COURT: Ms. Harper, does the willingness of  
11 your client to plead guilty result from plea negotiations  
12 with the government that have in turn resulted in a plea  
13 agreement?

14 MS. HARPER: No, your Honor.

08:56 15 THE COURT: Mr. Saldana-Vasquez, has anybody  
16 made any promise or assurance to you of any kind in an  
17 effort to get you to plead guilty today?

18 MR. SALDANA-VASQUEZ: No, sir.

19 THE COURT: Has anyone mentally or physically or  
20 any other way attempted to force you to plead guilty?

21 MR. SALDANA-VASQUEZ: No, sir.

22 THE COURT: Do you understand that if your  
23 guilty plea is accepted by Judge Kinkeade, you will be  
24 adjudged guilty of this offense and your punishment will  
25 be assessed somewhere in the range provided by statute?

08:57 1 MR. SALDANA-VASQUEZ: Yes, sir.

2 THE COURT: By pleading guilty to Count 1 of  
3 this indictment, you are facing a penalty as follows: A  
4 term of imprisonment for a period not to exceed twenty  
5 years. If probation is imposed, the term of probation  
6 cannot be less than one more than five years; a fine not  
7 to exceed \$250,000 or twice the pecuniary gain to the  
8 defendant or loss to the victim. A term of supervised  
9 release of up to three years would be imposed, and if you  
10 violated any of these conditions of supervised release,  
11 you could be imprisoned for the entire term of supervised  
12 release. Plus, you will receive a mandatory special  
13 assessment of one hundred dollars. The offense to which  
14 you are pleading will also result in your deportation and  
08:57 15 could adversely affect your ability ever to re-enter or  
16 become a citizen of the United States.

17 Do you understand, Mr. Saldana-Vasquez that you  
18 are facing all of this punishment by pleading guilty?

19 MR. SALDANA-VASQUEZ: Yes, sir.

20 THE COURT: Do you understand the penalty is  
21 entirely up to Judge Kinkeade?

22 MR. SALDANA-VASQUEZ: Yes, sir.

23 THE COURT: Do you need me to go over any aspect  
24 of this punishment with you further?

25 MR. SALDANA-VASQUEZ: No, sir.

08:58 1 THE COURT: Having heard all the foregoing, how  
2 do you plead to Count 1 of the indictment? Guilty or not  
3 guilty.

4 MR. SALDANA-VASQUEZ: Guilty.

5 THE COURT: This Court will then recommend to  
6 Judge Kinkeade that he accept your plea of guilty on the  
7 condition that there is a factual basis to support the  
8 plea. I have a Factual Resume in front of me which is  
9 four pages long, and that is your signature on the last  
10 page as well as of that of Ms. Harper. Did you read this  
11 in Spanish before you signed it?

12 MR. SALDANA-VASQUEZ: Yes, sir.

13 THE COURT: Are the facts as stated in the  
14 stipulated facts in Paragraph 5 true facts?

08:59 15 MR. SALDANA-VASQUEZ: Yes, sir.

16 THE COURT: And are they consistent with the  
17 true facts as you understand them from your investigation,  
18 Ms. Harper?

19 MS. HARPER: They are, your Honor.

20 THE COURT: It would be appropriate to read this  
21 into the record at this time, but I have read this, and  
22 you have told me these are true. So I will allow you to  
23 waive reading this. Do you wish to waive the reading of  
24 the Factual Resume?

25 MR. SALDANA-VASQUEZ: Waive, your Honor.

08:59 1 THE COURT: The Court being satisfied with the  
2 responses given in the case of United States of America  
3 versus Saldana-Vasquez 3:08-CR-102-K, the Court finds that  
4 Mr. Vasquez is fully competent and capable of entering an  
5 informed plea. The plea is supported by an independent  
6 basis in fact containing each of the essential elements of  
7 the offense charged, and it is recommended to Judge  
8 Kinkeade that he accept Mr. Vasquez's plea of guilty, and  
9 if he does, he would be adjudged guilty of this offense.

10 I have entered my findings, and these findings  
11 are basically recommending to Judge Kinkeade that he  
12 accept this plea. You have ten days from today to file  
13 any objections.

14 What happens next is Ms. Harper is going to set  
09:00 15 up an appointment with the Probation Office to come out  
16 and visit with you to begin this presentence report. You  
17 will be asked to give information for the report, and your  
18 degree of cooperation would be a factor in the severity of  
19 your sentence. As you already know, Ms. Harper is very  
20 well versed in this process, and she will be with you to  
21 make sure that everything runs smoothly for you.

22 Sentencing is September 10, 9:30 a.m. with a  
23 presentence report due July 29. A scheduling order will  
24 issue. Anything else?

25 MS. HARPER: No, sir.

09:00 1 MR. BROWN: No, sir.

2 THE COURT: You may be excused.

3 Mr. Isom. My understanding is Mr. Isom will be  
4 pleading guilty to Count 3 of the indictment. Is that  
5 correct?

6 MR. HOGUE: Yes, your Honor.

7 THE COURT: Sir, have you received a copy of  
8 this indictment?

9 MR. ISOM: Yes, sir.

10 THE COURT: Have you read it?

11 MR. ISOM: Yes, sir.

12 THE COURT: Do you understand what it says that  
13 you did?

14 MR. ISOM: Yes, sir.

09:02 15 THE COURT: I could have it read out loud if you  
16 wish, but seeing as you understand what you are charged  
17 with in Count 3, I will allow you to waive the reading.  
18 Do you wish to waive the reading?

19 MR. ISOM: Yes, sir.

20 THE COURT: Even though you have waived the  
21 reading of the indictment, I am required to go over the  
22 essential elements of this offense that the government  
23 would have to prove to a jury beyond a reasonable doubt  
24 before you could be found guilty. I want you to pay close  
25 attention to these essential elements because after these



09:03 1 are read into the record I am going to ask you if you  
2 admit to committing each of them.

3 (Essential elements read)

4 THE COURT: Mr. Isom, do you understand those  
5 are the essential elements of Count 3 that the government  
6 would have to prove to a jury beyond a reasonable doubt  
7 before you could be found guilty of this offense?

8 MR. ISOM: Yes, sir.

9 THE COURT: Do you admit to committing each of  
10 those?

11 MR. ISOM: Yes, sir.

12 THE COURT: You have Mr. Werbner appearing here  
13 today as your attorney.

14 MR. HOGUE: Mr. Hogue.

09:04 15 THE COURT: I'm sorry. Mr. Hogue.

16 Mr. Werbner was appointed on this case.

17 MR. HOGUE: Yes, sir, I'm here on his behalf.

18 THE COURT: Is that with your consent, sir?

19 MR. ISOM: Yes, sir.

20 THE COURT: Are you an associate in the firm?

21 MR. HOGUE: Yes, sir.

22 THE COURT: Now, we have Mr. Hogue appearing  
23 here today, and I know that you have had discussions with  
24 Mr. Werbner and Mr. Hogue about the Sentencing Guidelines  
25 and so forth. Have you also discussed with them the facts

09:04 1 and circumstances surrounding these charges?

2 MR. ISOM: Yes, sir.

3 THE COURT: Are you fully satisfied with the  
4 advice and representation that they have afforded you?

5 MR. ISOM: Yes, sir.

6 THE COURT: Does the willingness of your client  
7 to plead guilty result from plea negotiations with the  
8 government that have resulted in a plea agreement?

9 MR. HOGUE: Yes, your Honor.

10 THE COURT: I do have a document entitled Plea  
11 Agreement in front of me. This document is six pages  
12 long, and it has the signature of Mr. Isom and Mr. Werbner  
13 on the last pages as well as the government  
14 representatives.

09:05 15 Did you read this document before you signed it?

16 MR. ISOM: Yes, sir.

17 THE COURT: Are all the terms of your agreement  
18 with the government contained in this document?

19 MR. ISOM: Yes, sir.

20 THE COURT: Did you voluntarily of your own free  
21 will enter into this plea agreement?

22 MR. ISOM: Yes, sir.

23 THE COURT: Outside of this written plea  
24 agreement, has anybody made any promise or assurance to  
25 you of any kind in an effort to get you to plead guilty

09:05 1 here today?

2 MR. ISOM: No, sir.

3 THE COURT: Has anyone mentally or physically or  
4 in any other way attempted to force you to plead guilty?

5 MR. ISOM: No, sir.

6 THE COURT: Do you understand that if your plea  
7 is accepted by Judge Godbey you will be adjudged guilty of  
8 this offense and your punishment will be assessed  
9 somewhere in the range provided by statute?

10 MR. ISOM: Yes, sir.

11 THE COURT: I am going to summarize this plea  
12 agreement into the record, but it is the written document  
13 that controls. So if I skip over something, you know that  
14 it's in here. Page 1 talks about your rights and you  
09:05 15 waive those rights and agree to plead guilty to Count 3 of  
16 the indictment. The maximum punishment the Court can  
17 impose is a term of imprisonment not to exceed ten years  
18 or a fine not to exceed \$250,000, a term of supervised  
19 release of not more than three years which may be  
20 mandatory under the law and will follow any term of  
21 imprisonment. If you violate any term of supervised  
22 release, you could be imprisoned for the entire term of  
23 supervised release. And restitution for all relevant  
24 conduct will be ordered. You could also receive the costs  
25 of incarceration and supervision and forfeiture of any

09:06 1 property.

2 Are you a citizen of the United States?

3 MR. ISOM: Yes, sir.

4 THE COURT: The offense to which you are  
5 pleading guilty is a felony. Conviction of a felony would  
6 deprive you of valuable of rights of citizenship such as  
7 the right to vote, hold public office, serve on a jury and  
8 possess a firearm and other such rights. That would be in  
9 addition to the punishment I have just gone over. Do you  
10 understand that you are facing all of these penalties if  
11 you plead guilty?

12 MR. ISOM: Yes, sir.

13 THE COURT: Do you understand that if your  
14 sentence should be more severe than you anticipate, you  
09:07 15 will still be bound by your plea of guilty and have no  
16 right to withdraw the plea?

17 MR. ISOM: Yes, sir.

18 THE COURT: There is a recommendation under  
19 11(c)(1)(b) that you be sentenced under the Guidelines,  
20 and do you understand this is simply a recommendation and  
21 not binding on the Judge?

22 MR. ISOM: Yes, sir.

23 THE COURT: And if Judge Godbey decides not to  
24 follow this, you would have no right to withdraw your  
25 plea?

09:07 1 MR. ISOM: Yes, sir.

2 THE COURT: You will cooperate and the  
3 government will file a motion for downward departure.  
4 Whether or not the government does is entirely up to their  
5 discretion. You have waived the right to challenge your  
6 sentence, but you have reserved the right to bring a  
7 direct appeal to a sentence that exceeds the statutory  
8 maximum, mathematical errors in sentencing, to challenge  
9 the voluntariness of this waiver and to bring a claim of  
10 ineffective assistance of counsel.

11 Do you understand that you have the right to  
12 challenge your sentence on appeal under those limited  
13 circumstances?

14 MR. ISOM: Yes, sir.

09:08 15 THE COURT: Do you wish to waive those rights  
16 except under these limited circumstances?

17 MR. ISOM: Yes, sir.

18 THE COURT: I will order those be filed.

19 Do you need me to go over any of the aspects of  
20 this further?

21 MR. ISOM: No, sir.

22 THE COURT: How do you plead? Guilty or not  
23 guilty.

24 MR. ISOM: Guilty.

25 THE COURT: This Court will recommend to Judge

09:08 1 Godbey that he accept the plea. There is a factual basis  
2 to support the plea. I have a Factual Resume signed by  
3 you and Ms. Miller and your attorney. Are the facts as  
4 stated true facts?

5 MR. ISOM: Yes, sir.

6 THE COURT: I have read the facts, and you have  
7 told me that they are true. I will allow you to waive the  
8 reading. Do you wish to waive the reading?

9 MR. ISOM: Yes, sir.

10 THE COURT: The Court being satisfied with the  
11 responses given by Mr. Isom, the Court finds that the  
12 defendant is fully capable and competent to enter an  
13 informed plea and his plea of guilty to Count 3 of the  
14 indictment is a knowing and voluntary plea containing each  
09:09 15 of the essential elements charged in Count 3. It is  
16 recommended that Judge Godbey accept your plea, and if he  
17 does, you will be adjudged guilty of this offense. I have  
18 entered my findings, and these are that Judge Godbey  
19 accept your plea. You have ten days from today's date to  
20 file any objection to those findings.

21 What happens next is counsel is going to set up  
22 an appointment with the Probation Office to set up an  
23 interview for the presentence report. You will be asked  
24 to give information for that report, and your degree of  
25 cooperation could be a factor in the severity of your

09:09 1 sentence. Counsel is instructed to be armed with  
2 knowledge of USSG 3.1a at that process. Sentencing is set  
3 for September 15, 2008 at 9:00 a.m. with the Presentence  
4 Report due date of August 4. What's the government's  
5 position on bond in this matter?

6 MR. BROWN: To remain on the same conditions  
7 he's out on currently.

8 THE COURT: I do have a report from Pretrial  
9 Services that you have not abided by all the conditions of  
10 release and that the latter part of May and you missed a  
11 counseling session on June 3rd. However, you did  
12 reschedule a new counseling session. Make sure you don't  
13 violate any of those conditions because between now and  
14 your sentencing date, if you do violate those conditions I  
09:10 15 can assure you will be getting jail time. Do you  
16 understand?

17 MR. ISOM: Yes, sir.

18 THE COURT: Keep in mind these reports do come  
19 to the judges, and you will be proving to Judge Godbey  
20 after my admonishment to you and Pretrial's admonishment  
21 you can be trusted. It has a huge impact on your  
22 sentence. If you have any problems at all, you get in  
23 touch with your lawyer.

24 Anything else?

25 MR. BROWN: No.

09:11 1 MR. HOGUE: No, sir.

2 THE COURT: Thank you, we stand adjourned.

3 Mr. Comer.

4 THE COURT: Mr. Comer, do you understand that  
5 you are being charged with commission of a felony offense?

6 MR. COMER: Yes, sir.

7 THE COURT: Under the United States Constitution  
8 you may not be charged with a felony unless a grand jury  
9 finds by return of indictment that there is probable cause  
10 to believe that a crime was committed and that you  
11 committed it. However, you may waive your right to  
12 indictment and consent to being charged by an information  
13 by the United States Attorney. The felony charges brought  
14 against you have been filed by the filing of just such an  
09:12 15 information. If you do not waive indictment and the  
16 government wishes to pursue its case against you, it must  
17 present its case to the grand jury and request the grand  
18 jury indict. A grand jury is composed of at least sixteen  
19 but not more than twenty-three persons, and at least  
20 twelve grand jurors must find that there is proximate  
21 cause to believe that you committed the crime with which  
22 you are charged before the grand jury can indict. So the  
23 grand jury may or may not indict you. But if you waive  
24 the indictment, the case will proceed against you on the  
25 information of the United States Attorney just as though



09:13 1 you had been indicted.

2 Have you discussed with the attorneys the matter  
3 of waiving your right to indictment by the grand jury?

4 MR. COMER: Yes, sir.

5 THE COURT: Do you understand your right to  
6 indictment by the grand jury?

7 MR. COMER: Yes, sir.

8 THE COURT: And have any promises or threats  
9 been made to induce you to waive the indictment?

10 MR. COMER: No, sir.

11 THE COURT: Do you wish to waive the indictment  
12 by the grand jury?

13 MR. COMER: Yes, sir.

14 THE COURT: I have a waiver filed on March 14.

09:13 15 Did you read that?

16 MR. COMER: Yes, sir.

17 THE COURT: The Court finds that Mr. Comer's  
18 waiver of indictment is knowingly and voluntarily made.

19 Have you received a copy of this information?

20 MR. COMER: Yes, sir.

21 THE COURT: Do you understand what it charges  
22 you with?

23 MR. COMER: Yes, sir.

24 THE COURT: Now, I could have it read out loud  
25 if you wish, but seeing as you understand what you are

09:13 1 charged with, I will allow you to waive the reading. I  
2 know that it's Count 1 in the plea agreement, but on my  
3 docket sheet, I thought it said Count 2. Count 1 of the  
4 indictment.

5 MR. YANOWITCH: I believe so, your Honor. Count  
6 2 is a forfeiture count.

7 THE COURT: Thank you. Now, I could have this  
8 read out loud, but seeing as you understand what you are  
9 charged with, I will allow you to waive the reading. Do  
10 you wish to waive the reading?

11 MR. ISOM: Yes, sir, I wish to waive.

12 THE COURT: Even though you waive the reading of  
13 the indictment, I am required to go over the essential  
14 elements that the government would be required to prove to  
09:14 15 a jury before you could be found guilty beyond a  
16 reasonable doubt. I want you to pay close attention to  
17 these essential elements because after these are read, I  
18 will ask you if you admit to committing each of them.

19 (Essential elements read)

20 THE COURT: Mr. Comer, do you understand that  
21 those are the essential elements of this offense that the  
22 government would have to prove to a jury beyond a  
23 reasonable doubt before you could be found guilty?

24 MR. COMER: Yes, sir.

25 THE COURT: And do you admit to committing each

09:15 1 of those?

2 MR. COMER: Yes, sir.

3 THE COURT: Now, Mr. Mendrygal and Mr. Majeta  
4 are representing you in this matter, and I know that they  
5 have discussed the Sentencing Guidelines with you. Have  
6 you also discussed the facts and circumstances surrounding  
7 these charges with your attorneys?

8 MR. COMER: Yes, sir.

9 THE COURT: Are you fully satisfied with the  
10 advice and representation that they have given to you?

11 MR. COMER: Yes, sir.

12 THE COURT: Counsel, does the willingness of  
13 your client to plead guilty result from plea negotiations  
14 with the government that have resulted in a plea  
09:15 15 agreement?

16 MR. MAJETA: Yes, your Honor.

17 THE COURT: I do have a plea agreement. This  
18 document is seven pages long and has the signature of Mr.  
19 Majeta and Mr. Comer and Mr. Mendrygal on the last page.  
20 Did you read this document before you signed it?

21 MR. COMER: Yes, sir.

22 THE COURT: Are all the terms of your agreement  
23 with the government contained in this document?

24 MR. COMER: Yes, sir.

25 THE COURT: Are you asking that Judge Godbey

09:16 1 accept this plea agreement?

2 MR. COMER: Yes, sir.

3 THE COURT: Did you voluntarily and of your own  
4 free will enter into this plea agreement?

5 MR. COMER: Yes, sir.

6 THE COURT: Has anyone made any promise or  
7 assurances to you of any kind to get you to plead guilty?

8 MR. COMER: No, sir.

9 THE COURT: Has anyone mentally or physically or  
10 in any other way attempted to force you to plead guilty?

11 MR. COMER: No, sir.

12 THE COURT: And you understand your punishment  
13 will be assessed somewhere in the range of punishment  
14 provided by statute?

09:16 15 MR. COMER: Yes, sir.

16 THE COURT: I am going to summarize this plea  
17 agreement into the record, but it is the written document  
18 that controls. So if I skip over something, you know it's  
19 in here. Page 2 talks about your rights that we went over  
20 this morning, and you waive those rights and plead guilty  
21 to Count 1 of the information.

22 The maximum punishment the Court will impose is  
23 as follows: A term of imprisonment of not more than five  
24 years or loss to any victim, a term of supervised release  
25 of not more than three years which would be mandatory

09:17 1 under the law and would follow any term of imprisonment.  
2 If you violated any of those conditions of supervised  
3 release you could be imprisoned for a period of not more  
4 than two years at one time. A mandatory special  
5 assessment will be imposed of one hundred dollars, and  
6 restitution will be ordered for all relevant conduct, not  
7 just Count 1 this information. You could be required to  
8 pay the costs of incarceration and supervision. You have  
9 an agreed disposition of this under 11(e)(1)(C); that is,  
10 you and the government have agreed that the proper  
11 punishment in this case would be a term of imprisonment of  
12 eighteen months followed by a term of supervised release  
13 of three years, six months of which would be on home  
14 confinement. And restitution would be an appropriate  
09:18 15 deposition.

16 Now, if Judge Godbey rejects this plea, you will  
17 be allowed to withdraw your plea of guilty. Do you  
18 understand that as well?

19 MR. COMER: Yes, sir.

20 THE COURT: A mandatory special assessment of  
21 one hundred dollars will be paid. You will cooperate by  
22 giving complete and truthful information. Whether or not  
23 the government files a motion for a downward departure  
24 will be fully and entirely up to them as it is whether or  
25 not to grant it by Judge Godbey. If you violate this

09:18 1 agreement, you have no agreement with the government.  
2 They are free to prosecute you fully. You have waived  
3 your right to appeal or otherwise challenge your sentence  
4 under habeas corpus provisions. But you have reserved the  
5 right to appeal a sentence that results from exceeding the  
6 statutory maximum, mathematical errors, to challenge the  
7 voluntariness of this plea and ineffective assistance of  
8 counsel.

9 Do you understand that you have waived those  
10 rights?

11 MR. COMER: Yes, sir.

12 THE COURT: And Paragraph 1, you agreed to  
13 voluntarily forfeit all of the property in Count 2 of the  
14 information.

09:19 15 I order the plea agreement to be filed in this  
16 matter. Now, are you a citizen of United States?

17 MR. COMER: Yes, sir.

18 THE COURT: The event to which you are pleading  
19 guilty is a felony, as I have said. A conviction of a  
20 felony would deprive you of valuable rights of citizenship  
21 such as the right to vote, serve on a jury, possess  
22 firearms and other such valuable rights. That would be in  
23 addition to the rights I have just gone over.

24 Do you understand that you are facing all of  
25 these penalties if you plead guilty?

09:19 1 MR. COMER: Yes, sir.

2 THE COURT: How do you plead to Count 1 of the  
3 indictment? Guilty or not guilty.

4 MR. COMER: Guilty.

5 THE COURT: And how do you plea -- I'm sorry.  
6 Of the information. How do you plead to Count 2 of the  
7 information? True or not true.

8 MR. COMER: True.

9 THE COURT: This Court will then recommend to  
10 Judge Godbey that he accept your pleas of guilty and true  
11 on the condition that there is a factual basis to support  
12 these pleas. I have a Factual Resume in front of me  
13 that's four pages long. It has your signature on the  
14 fourth page as well as your attorneys'. Did you read this  
09:20 15 before you signed it?

16 MR. COMER: Yes, sir.

17 THE COURT: Are these facts true facts?

18 MR. COMER: Yes, sir.

19 THE COURT: Counsel, are they consistent with  
20 the true facts that your investigation has shown?

21 MR. MAJETA: Yes, Judge, they are.

22 THE COURT: I have reviewed this, and you have  
23 told me these are true. So I will allow you to waive the  
24 reading. Do you wish to waive the reading?

25 MR. COMER: Yes, sir.

09:20 1 THE COURT: Court being satisfied with the  
2 responses given in the case of United States of America  
3 versus Michael Comer, 3:08-CR-085-N, the Court finds that  
4 Mr. Comer is fully competent and capable of entering an  
5 informed plea of guilty to Count 1 of the information and  
6 true to Count 2 of the information, that they are knowing  
7 and voluntary pleas supported by facts contained in the  
8 special elements as charged. It is recommended to Judge  
9 Godbey that he accept your plea, and if he does, you will  
10 be adjudged guilty of these offenses. I have entered my  
11 findings, and these findings are basically that Judge  
12 Godbey accept your plea of guilty and true. You have ten  
13 days from today's date to object to those findings.

14 Now, what happens next is counsel is going to  
09:21 15 set up an appointment with probation to start the  
16 interview process for this presentence report, and you  
17 will be asked to give information for this report, and  
18 your degree of cooperation would be a factor in the  
19 severity of your sentence. Counsel will be with you and  
20 make sure that everything runs smoothly for you.  
21 Sentencing is September 15, 2008, and a presentence report  
22 is due date at August 4th. The sentencing is at 9:40.

23 Now, this is also Mr. Comer's initial  
24 appearance. Is that correct?

25 MR. MAJETA: That's correct.



09:22 1 THE COURT: What's the government's position on  
2 bond?

3 MR. YANOWITCH: The government's position is Mr.  
4 Comer be released on his personal recognizance subject to  
5 the normal terms and conditions.

6 THE COURT: I am going to order you released  
7 subject to the conditions of pretrial release. I am going  
8 to order pretrial supervision. Do you have a passport?

9 MR. COMER: No, sir, I do not.

10 THE COURT: You are not to leave the United  
11 States.

12 MR. COMER: Yes, sir.

13 THE COURT: I am going to hand down these  
14 conditions of release. If you agree to abide by them, go  
09:22 15 ahead and signed them. I will inform you if you fail to  
16 appear at any court appearance you will be looking at an  
17 additional ten years imprisonment. Any time you receive  
18 will run consecutively; that is, in addition to any time  
19 you get on this underlying offense. Even if you get this  
20 downward departure and probation is a consideration, you  
21 could still go to jail. Do you understand that?

22 MR. COMER: Yes, sir.

23 THE COURT: Mr. Comer, I am ordering you  
24 released after processing with the Marshal. You have to  
25 go upstairs and give your fingerprints and picture and so

09:25 1       forth. You have to meet with Pretrial Services today.

2       Any questions?

3               MR. COMER: No, sir.

4               THE COURT: What else?

5               MR. YANOWITCH: Nothing from the government.

6               MR. MAJETA: Thank you, Judge.

7               THE COURT: You may be excused.

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## C E R T I F I C A T I O N

I, Cassidi L. Casey, certify that during the proceedings of the foregoing-styled and -numbered cause, I was the official reporter and took in stenotypy such proceedings and have transcribed the same as shown by the above and foregoing Pages 1 through 50 and that said transcript is true and correct.

I further certify that the transcript fees and format comply with those prescribed by the court and the Judicial Conference of the United States.

s/Cassidi L. Casey

---

CASSIDI L. CASEY  
UNITED STATES DISTRICT REPORTER  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION  
CSR NUMBER 1703

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